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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,850	09/12/2003	Edward W. Armstrong	YOR920030312US1	7027

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EXAMINER	
CRAWLEY, TALIA F	

ART UNIT	PAPER NUMBER
3687	

NOTIFICATION DATE	DELIVERY MODE
09/18/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/660,850	ARMSTRONG ET AL.	
	Examiner	Art Unit	
	TALIA CRAWLEY	3687	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-23* is/are pending in the application.

4a) Of the above claim(s) *12-23* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-11* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *12 September 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Prosecution History Summary

- Claims 1-11 are pending in the instant application.
- Claims 12-23 were previously withdrawn from further consideration, pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Abbott et al. (US 2004/0236641).

Regarding **claim 1**, Abbott et al. disclose a method for resolving demand and supply imbalances comprising: identifying at least one excess component inventory liability or at least one constraint in supply capability for an end product (see in particular page 1, paragraph [0005], lines 6-10, wherein the method entails creating a list of constrained parts by outlining the parts demand that is covered by supply and outlining the parts that are not covered) by matching

current buying patterns for said end product against inventory liability and supply capability based on a previous demand forecast (see for example page 4, paragraph [0052], lines 2-6, wherein the optimization tool generates forecasted demand data that is saved in storage for access by other parts in the system) ; where excess component inventory liability exists: refocusing said at least one excess component inventory liability by determining alternative end products that use components identified in said at least one excess component inventory liability; and executing sales activities operable for enticing sales of said alternative end product (see for example page 7, paragraph [0094], lines 31-37, wherein virtual excess parts left over from external demand are available to internal demand consumption, where internal demand is includes usage for alternative end products); and where constrained supply capability exists: determining alternative end products that are functionally equivalent to those identified in said at least one constrained supply capability; and executing sales activities operable for enticing sales of functionally equivalent alternative end products (see in particular page 5, paragraph [0069], lines 1-9, wherein if there is a shortage of parts, the not covered part list is processed to determine a harvesting configuration of which machines and how many of each should be harvested); wherein said sales activities result in reducing said at least one excess component inventory liability or avoiding said at least one constraint in supply capability (see in particular page 1, paragraph [0006], lines 11-16, wherein the optimal dismantling configuration of the machine supply to satisfies parts demand at the lowest cost to meet part demand by converting parts demand into machine-to-dismantle demand).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 3-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abbott et al. (US 2004/0236641).

Regarding **claim 3**, Abbott et al. disclose a method for resolving demand and supply imbalances, as applied above in the rejection of claim 1 under 35 U.S.C. 102(e), and Abbott et al. further disclose that the refocusing said at least one excess component inventory liability by determining alternative end products that use components identified in said at least one excess component inventory liability includes performing a supply liability reduction process comprising: a procurement and development assessment sub-process including mitigation activities, said procurement and development assessment sub-process mitigation activities

representing a greatest magnitude of liability, but Abbott et al. do not explicitly disclose that the procurement and development sub-process mitigation activities are performed first in time before other sub-processes.

However, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have performed the steps disclosed by Abbott et al. in an order such that the procurement and development sub-process mitigation activities would be performed first in time before other sub-processes, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results, and since it has been held that selection of any order of performing process steps is prima facie obvious in the absence of new or unexpected results. *In re Burhans*, 154 F.2d 690, 69 USPQ 330 (CCPA 1946).

Regarding **claim 4,** Abbott et al. disclose the method of claim 3, wherein said performing a supply liability reduction process further includes: a liability council assessment sub-process including mitigation activities, said liability council assessment sub-process mitigation activities representing a magnitude of liability less than that of said procurement and development assessment sub-process, but does not explicitly disclose the method of claim 3, wherein said liability council assessment sub-process mitigation activities are performed second in time after said procurement and development assessment sub-process.

However, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have performed the steps disclosed by Abbott et al. in an order such that the liability council assessment sub-process mitigation activities would be performed second in time

after said procurement and development assessment sub-process, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results, and since it has been held that selection of any order of performing process steps is prima facie obvious in the absence of new or unexpected results. *In re Burhans*, 154 F.2d 690, 69 USPQ 330 (CCPA 1946).

Regarding **claim 5**, Abbott et al. disclose the method of claim 3, wherein said performing a supply liability reduction process further includes: a sales activities sub-process including mitigation activities, said sales activities sub-process mitigation activities representing a magnitude of liability less than that of said liability council assessment sub-process, but does not explicitly disclose the method of claim 3, wherein said sales activities sub-process mitigation activities are performed third in time after said liability council assessment sub-process.

However, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have performed the steps disclosed by Abbott et al. in an order such that the sales activities sub-process mitigation activities would be performed third in time after said liability council assessment sub-process, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results, and since it has been held that selection of any order of performing process steps is prima facie obvious in the absence of new or unexpected results. *In re Burhans*, 154 F.2d 690, 69 USPQ 330 (CCPA 1946).

Regarding **claim 6**, Abbott et al. disclose the method of claim 3, wherein said performing a supply liability reduction process further includes: a liability write off sub-process including mitigation activities, said liability write off sub-process mitigation activities representing a magnitude of liability less than that of said sales activities, but does not explicitly disclose the method of claim 3, wherein said liability write off sub-process mitigation activities are performed fourth in time after said sales activities sub-process.

However, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have performed the steps disclosed by Abbott et al. in an order such that the liability write off sub-process mitigation activities would be performed fourth in time after said sales activities sub-process, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results, and since it has been held that selection of any order of performing process steps is prima facie obvious in the absence of new or unexpected results. *In re Burhans*, 154 F.2d 690, 69 USPQ 330 (CCPA 1946).

In regards to **claim 7**, Abbott et al. disclose the method of claim 3, wherein said procurement and development assessment sub-process mitigation activities comprise at least one of: rebalancing demand and supply by shifting demand or supply from one geography to another; selling components back to vendors; negotiating with vendors to eliminate or reduce liability based upon mutually agreed to incentives that provide incremental value to both parties; using excess components as field parts in support of a warranty program or servicing requirements; qualifying excess components in new products; and adjusting said sales forecast to account for

excess or constrained components (see for example page 5, paragraph [0070], lines 4-9 and page 6, paragraph [0092], lines 4-8, wherein incentives are offered to lessees to terminate leases early to obtain equipment for meeting not covered parts demand, and wherein when there is no demand, the excess parts are fed back into SCP #2 to be matched with some other demand).

In regards to **claim 8**, Abbott et al. disclose the method of claim 4, wherein said liability council assessment mitigation activities comprise at least one of: updating said sales forecast to account for excess or constrained components; conducting squared sets analysis; brokering components or products that are no longer saleable; creating saleable bundles with other current offerings; developing option packages; determining alternative routes to market; and making liability write-off determinations (see in particular page 5, paragraph [0076], lines 1-9 and page 6, paragraph [0077], lines 1-12).

In regards to **claim 9**, Abbott et al. disclose the method of claim 5, wherein said sales activities sub-process mitigation activities sub-process comprise at least one of: developing a promotion for long-term over supply through advertisements and communications media; offering a solution via alternate routes to market; authorizing pricing actions comprising at least one of: price decreases; discount incentives; and pricing delegations; establishing incentives for buying or selling; reassessing commission structures for an offering; and updating telesales team scripts for inbound and outbound telephone calls (see for example page 5, paragraph [0070], lines 4-9 and page 7, paragraph [0097], lines 1-5) .

In regards to **claim 10**, Abbott et al. disclose the method of claim 6, wherein said liability write off mitigation activities comprise at least one of: negotiating with a vendor; and scrapping components associated with said liability (see in particular page 5, paragraph [0072], lines 6-12).

8. Claims 2 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abbott et al. (US 2004/0236641) as applied to claim 1 above under USC 102(e), in view of Kennedy et al. (US 6,167,380).

Regarding **claim 2**, Abbott et al. disclose the method of claim 1, wherein said identifying at least one excess component inventory liability or at least one constraint in supply capability includes: exploding a bill of materials for a product structure based upon a sales forecast, demand data, and supplier commitment data (see in particular page 5, paragraph [0068], lines 1-3 and paragraph [0073], lines 6-10), but does not explicitly disclose the method of claim 1 where identifying at least one excess component inventory liability or at least one constraint in supply capability includes: imploding results of said exploding into end products and an available to promise statement; translating said results into lead times for delivery; and identifying remaining results not included in said available to promise statement as excess component inventory liability or constraint in supply capability for an end product.

However, Kennedy et al. teach the method of claim 1, but include the method of claim 1 where identifying at least one excess component inventory liability or at least one constraint in supply capability includes: imploding results of said exploding into end products and an available to promise statement (see for example column 2, lines 38-52) ; translating said results into lead times for delivery (see in particular column 4, lines 41-47) ; and identifying remaining

results not included in said available to promise statement as excess component inventory liability or constraint in supply capability for an end product (see for example column 4, lines 48-57).

Therefore, it would have been obvious to a person of ordinary skill in the art, at the time of the invention, to implement identifying at least one excess component inventory liability or at least one constraint in supply capability including imploding results of said exploding into end products and an available to promise statement translating said results into lead times for delivery; and identifying remaining results not included in said available to promise statement as excess component inventory liability or constraint in supply capability for an end product with the invention as disclosed by Abbott et al, because by utilizing an available to promise statement and determining lead times for various products to determine what materials are in excess or constrained, a company would be able to determine the amount of time and inventory available to complete customer order requests, thereby reducing production time and reducing liability.

Regarding **claim 11**, Abbott et al. disclose the method of claim 1 but do not explicitly disclose the method of claim 1, wherein said sales activities include: cross-sell; up-sell; alternative-sell; and down-sell.

However, Kennedy et al. teach the method of claim 1 and include the method of claim 1, wherein said sales activities include: cross-sell; up-sell; alternative-sell; and down-sell (see in particular column 4, lines 59-67, column 5, lines 1-3, and column 9, lines 1-5).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention to include cross, up, alternative, and down selling techniques in the sales activities of

the invention as disclosed by Abbott et al, because by introducing various sales techniques within mitigation activities, a company can effectively minimize profit loss by offering customers products at lower costs, alternative products at the same price, bundles, and offer increased pricing to customers who want to receive specified goods on time. By increasing product and pricing alternatives to customers, the company can increase the likelihood of sales and profit, thereby reducing the liability caused by excess or constrained inventory.

Response to Arguments

With regard to the applicant's arguments, filed on 08/07/2008, the claims have been considered, but the examiner respectfully disagrees.

The applicant argues that the method as disclosed by Abbott does not require excess or constraint in the supply capability, and that excess or constraint is not a required component, citing paragraph [0005] of the reference. The examiner notes that in paragraph [0004] and [0005], Abbott discloses a method for optimizing a machine supply to meet part demand, wherein the first step of the method further comprises determining a portion of the parts demand that cannot be satisfied from the machine supply. Therefore, the method as disclosed by Abbott also hinges on utilizing excess parts to satisfy product demand.

The applicant also argues that Abbott fails to teach or suggest matching current buying patterns for said end product against inventory liability and supply capability based on ***previous*** demand forecast, citing paragraph [0052], wherein Abbott discloses a method for generating forecasted demand data for parts and storing those results for later use in determining the optimal dismantling configuration. However, the claim fails to define the term "previous" in the claim or

the specification. One of ordinary skill in the art would appreciate that the definition of the term "previous" (as supplied by Webster's dictionary) is "going before in time or order". Based on the well known definition of the term "previous", it is inherent that by saving the forecasted demand data in central data storage for later access by various parts of the system constitutes that the forecast data was created before it was accessed, and therefore is a previous demand forecast.

The applicant argues that Abbott fails to teach or suggest "executing sales activities". Claim 1 was given its broadest and most reasonable interpretation by the examiner for the purpose of examination. No specific limitations that define "executing sales activities" were written in claim 1. Executing sales activities, as described on pages 21-22 of applicant's specification, comprises taking one or more of the actions as described below:

"The sales activities sub-process 406 comprises a set of sales activities undertaken by the finance 123, marketing 124, sales 119, and distribution teams. This group is responsible for engaging the customer 120 through various channels 122 and means. The team takes one or more the actions described below.

Develop a promotion for long-term overages through advertisements and other communications media.

Offer the solution via other routes to market, such as secondary channels, brokers, special bids, or employee sales. Data mining 114 may be used to provide focused results and achieve the desired impact.

Authorize pricing actions, including price decreases, discount incentives, and pricing delegations.

Establish incentives for buying or selling.

Reassess the commission structure for the offering.

Update telesales team scripts 138 for inbound and outbound telephone calls.

Request the liability council address specific issues that cannot be resolved via sales activities."

In paragraph [0094], Abbott discloses entering monetary value of machine parts and products into the optimization tool, which meets the limitation of delegating prices to products and parts. Furthermore, in paragraphs [0070] and [0097] (which were cited by examiner in first action,

claim 9, which further defines the limitations of executing sales activities), Abbott teaches offering early lease termination to lessees to acquire more machine products and/or machine parts to address supply constraint, and using the virtual supply embodiment to support advanced advertising of forecasted parts supply. Abbott meets three limitations of those listed within the specification and claim 9. In order to anticipate the claim, examiner need only find once instance in which the claim limitation is met.

Applicant also argues that Abbott teaches away from the feature "determining alternative end products that are functionally equivalent to those identified in said at least one constrained supply capability" as is written in claim 1, and claims that claim 1 seeks to avoid using alternate part sourcing to meet further market demands. The claim language within in the claim determine the scope and breadth of the claim. Examiner notes that the sourcing of the products or parts that are incorporated to create the alternative end product is not disclosed within claim 1. Based on the broadest reasonable interpretation of the claim, one of reasonable skill can construe that the dismantling of current products to create an inventory of parts, and then the usage of those parts for reconstruction into various products or for individual sale to meet inventory constraints as taught by Abbott would signify determining alternative end products.

Finally, applicant argues that Abbott teaches away from the claimed invention, because it fails to teach or suggest "wherein said sales activities result in reducing said at least one excess component inventory liability or avoiding said at least one constraint in supply capability." Applicant claims that claim 1 seeks to avoid excess demand for, or excess supply of, products through various means, as supported in the claims. Again, the scope of the claim is limited to the claim language within it. Claim 1 states wherein sales activities result in reducing said at least

one excess component inventory liability or avoiding said at least one constraint in supply capability. Examiner has shown previously that Abbott teaches at least one of the limitations that constitute sales activities, and therefore only needs to show that such sales activities can result in reducing at least on excess component or avoiding at least one supply constraint. Abbott teaches a supply optimization system that collects specific machine parts internally to meet internal and/or external part demand, which is essentially reducing excess or avoiding constraint, as further elaborated in paragraphs [0005] through [0008] of the reference.

Conclusion

1. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TALIA CRAWLEY whose telephone number is (571)270-5397. The examiner can normally be reached on Monday to Thursday eight to five.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Gart can be reached on 571-272-3955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. C./
Examiner, Art Unit 3687
9/09/2008

/Matthew S Gart/
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